

Rhode Island Statewide Planning Program  
**STATE PLANNING COUNCIL**

**Thursday, January 14, 2010**  
William E. Powers Building  
Conference Room A  
One Capitol Hill, Providence, RI

**I. ATTENDANCE**

**Members Present**

Mr. Kevin Flynn, Chair	Representing Mr. Gary Sasse, Chair RI Department of Administration
Mr. Christopher Long, Vice Chair	Representing Mr. Timothy Costa
Mr. Jared L. Rhodes, II Secretary	Statewide Planning Program
Ms. Susan Baxter	RI Housing Resources Commission
Mr. Thomas Deller	City of Providence Department of Planning & Development
Ms. Diane Feather	Representing Ms. Jeanne Boyle, City of East Providence, Planning & Development
Mr. Thomas Mullaney	Budget Office, representing Ms. Rosemary Gallogly
Mr. L. Vincent Murray	Town of South Kingstown Planning Department
Ms. Anna Prager	Public Member
Mr. Michael Rauh	Environmental Advocate
Mr. Bob Shawver	Representing Mr. Michael Lewis, RI DOT
Mr. Henry Sherlock	Representing Mr. Stephen Cardi
Mr. John Trevor	Environmental Advocate
Ms. Sharon Conard-Wells	West Elmwood Housing Development Corporation
Mr. Lee Whitaker	Representing Mr. William Sequino, Public Member
Ms. Janet White-Raymond	Public Member

**Members Absent**

Mr. Daniel Berman	RI League of Cities and Towns
Mr. Daniel Beardsley	RI League of Cities and Towns
Mr. Peter Osborn, ex officio	Federal Highway Administration

**Guests**

Ms. Kelly Mahoney	RI Senate Policy Office
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**Staff – Division of Planning**

Mr. Benny Bergantino	Senior Planner, Comprehensive Plans
Mr. Kevin Nelson	Supervising Planner, Comprehensive Plans
Ms. Derry Riding	Principal Planner, Comprehensive Plans
Ms. Karen Scott	Acting Supervising Planner, Transportation
Ms. Dawn Vittorioso	Executive Assistant

**II. AGENDA ITEMS**

**1. Call to Order**

Mr. Flynn called the meeting to order at 9:06 a.m.

**2. Approval of December 10, 2009 Meeting Minutes**

*Ms. Conard-Wells moved to approve the Minutes of December 10, 2009 as presented. The motion was seconded by Ms. White-Raymond. There was no further discussion and the motion carried unanimously.*

**3. Comprehensive Plan Assessment Process, Proposed Enabling Act Amendments**

Mr. Flynn began by introducing Mr. Nelson. Mr. Nelson presented an overview of the draft legislation (please see attachment 1) after which, he asked the Council if anyone had any questions or comments.

Mr. Deller suggested having an additional section in the Act requiring comprehensive plans address man-made as well as natural hazards. Mr. Flynn noted that emergency management plans already require communities to address such hazards but that some municipalities may choose to incorporate relevant sections into their comprehensive plan. Mr. Deller also said that there should be some flexibility in required maps. For example, if an item can be stated in a sentence, the community should be allowed to do so versus drawing a superfluous map. Mr. Nelson agreed and said he understands that flexibility will be needed. Mr. Murray also agreed with Mr. Deller.

Mr. Murray asked how the proposed ten-year requirement would interface with the current five-year update requirement. Mr. Flynn said the communities that are in the process of updating their five-year plan may wish to submit them after the bill takes effect; however, that will be a judgment call by the community. Ms. Prager disagreed and said she would prefer communities to submit their five-year plan as scheduled and then move to the ten-year plan once the five-year update expires. Mr. Deller suggested including language that would specify communities completing their five-year plan between the specified dates will be transferred to the ten-year schedule. Mr. Nelson noted that proposed bill provides flexibility by stating the ten-year schedule will be implemented by a schedule that will be set by the Director after the bill passes. Mr. Flynn agreed to examine this issue further.

Mr. Shawver referred to the provision that talks about technical assistance. Mr. Shawver suggested providing a more-detailed explanation of what would be required. Mr. Shawver said adding an additional function on State agencies would create a capacity issue, and he believes that expectations would not be met. Mr. Flynn said the language used in the bill (i.e. "as practicable") is intended to address department capacity issues.

Mr. Rauh asked why written agreements are needed for draft reviews and suggested including the draft review requirements be included in the law. Mr. Nelson said the intent is to have drafts submitted prior to public hearings but sufficient time is needed in order to complete a review. Having a written agreement in place would allow for negotiating timelines with the community based on staff capacity, and it lessens the opportunity to overlook more informal deadlines. Mr. Deller asked if there could be a way to accomplish written agreements without attorney involvement. Mr. Nelson suggested creating a standardized template that would be customized for each community.

Mr. Murray asked how the implementation report would be formatted and if a checklist would be provided. Mr. Flynn said it could be a basic tabular report with a checklist and it will that will not require a consultant.

Ms. Feather expressed concern for putting the entire comprehensive plan at risk when a portion of, or amendment to, a plan is not approved. Mr. Rauh agreed with Ms. Feather and asked if the State could simply not approve specific sections within the comprehensive plan. Mr. Flynn said it was a valid point and it is something that will be considered.

Mr. Flynn asked if there were any additional comments or suggestions. As there were no additional comments, Mr. Flynn turned to the issue of bringing zoning into conformance with

the comprehensive plan. He noted that the current 18-month interregnum creates some uncertainties and provided the following scenario: a proposed project is consistent with current zoning but not consistent with the future land use map. What is the proper course of municipal action?

Mr. Flynn noted that municipalities always have the option to update their zoning simultaneously with the comprehensive plan but noted that this is difficult and rarely done. He presented the following option for consideration:

- Municipalities would adopt an implementation schedule in their comprehensive plan for phasing in zoning changes. During that time, existing zoning would prevail.
- Municipalities would be allowed to implement a moratorium one-year prior to the implementation date during which only very limited actions under current zoning would be allowed.
- Municipalities would be required to amend either their implementation schedule or future land use map if the initial schedule could not be met.

Mr. Flynn asked the Council if anyone had any questions or comments. Mr. Rauh asked what would be covered. Mr. Flynn said it would be for mapped changes identified on the future land use map that is not consistent with current zoning.

Mr. Deller disagrees with moratoriums due to the potential for abuse. Mr. Flynn said that the towns would have the choice of adopting a moratorium or not. Mr. Flynn also said that the potential abuse of moratoriums would be prevented by requiring inconsistencies between a future land use and existing zoning be clearly identified on a map and clearly limiting the moratorium to one-year.

Mr. Nelson clarified that the current, uniform eighteen-month requirement that zoning be brought into conformance with a plan would no longer be part of the Act; to replace this section, municipalities will propose a schedule for implementing the zoning changes. Mr. Nelson said that if a municipality schedules a change to their zoning and later finds that it is not ready to make the change, the municipality can change the schedule. Mr. Deller is concerned about how the language will be drafted and how it will be interpreted. Mr. Flynn said that staff will continue to refine the proposed language and will notify the Council of the changes.

Mr. Nelson asked the Council's opinion if the Act should just generally enable a municipality to enact a moratorium or if provisions of what would be allowed or disallowed in a moratorium be codified in the Act. Mr. Deller said specifics should be put in statute.

Ms. Prager said that she supports the changes and would like to go forward with the amendment to the Act. Ms. Feather said that she thinks that our current legislation has served the state well and has been recognized nationally as a model.

#### **4. Committee Membership Expirations / Nominations**

Mr. Flynn asked Mr. Rhodes to speak about the Committee Membership expirations / nominations. Mr. Rhodes began by reminding the Council that the slate of names for the

Technical Committee and the Transportation Advisory Committee were distributed at the last meeting, and then said that this is an action item for the nominations. *Mr. Deller motioned to approve. Mr. Rauh seconded the motion. The motion was unanimously approved and carried.*

## **5. Chief's Progress Report**

Mr. Rhodes began by reminding the Council of the Federal Highway and Transit Administration's quadrennial recertification last September. Mr. Rhodes advised the Committee that he had received a draft Recertification Report from FHWA/FTA that indicates that not only will the Program be recertified for another four years, but that a number of commendations will also be issued. These included commendations to:

- RIPTA for their expanded efforts to undertake multimodal statewide transit planning initiatives such as the Providence Metro Area Transit study and the formulation of their new strategic transit planning committee.
- Statewide Planning Program for the superb level of coordination that has been established between land use and transportation planning as evidenced by the use of land use development scenarios that link Land Use 2025 with Transportation 2030.
- Statewide Planning Program for the Planning Challenge Grant Program which provides opportunities to implement Transportation 2030 and Land Use 2025 by strategically providing direct technical assistance to RI's municipalities.
- Governor's Blue Ribbon Panel for Transportation Financing which built on Transportation 2030's recognition of the critical funding situation RI faces and put forward a series of recommendations for increasing revenues.
- Transportation Advisory Committee for their overall effectiveness in respecting and balancing the interests of all through the transportation planning process.

Mr. Deller informed the Council that the Division of Planning was commended by the RIPTA Strategic Planning Committee for all their efforts.

Mr. Rhodes advised the Council that there will be a TIP Amendment in the near future that is proposed by RIPTA. Mr. Rhodes said he believes that it will be classified as a minor amendment. Mr. Rhodes told the Council that they would receive notice of the requested action; however, it will not be reviewed by the State Council for approval.

After Mr. Rhodes' review, Mr. Flynn took a moment to commend Mr. Nelson, Mr. Rhodes, Ms. Scott, and Ms. Riding for their all their work during the past two years on the Comprehensive Plan.

## **6. Other Business**

None

## **7. Adjourn**

Draft  
1/14/10

*Ms. White-Raymond motioned to adjourn. Mr. Whitaker seconded the motion. The motion was unanimously carried and the meeting was adjourned at 10:28 A.M.*

Respectfully submitted,

Jared L. Rhodes, II  
Secretary

**Attachment 1**

**Statewide Planning Program**  
Comprehensive Plan Assessment Process, Proposed Enabling Act Amendments

# RI Comprehensive Planning & Land Use Regulation Act

## *Recommendations for Change*





## Three Categories of Recommendations

On October 8, 2009, the State Planning Council adopted Rhode Island Comprehensive Community Planning System Assessment and Recommendations, An Implementation Report for *Land Use 2025: Rhode Island's Land Use Policies and Plan*. This report contains:

- 21 recommendations that can be implemented administratively.
  - 5 recommendations that require changes to the rules of the State Planning Council.
  - 8 recommendations that require changes to the Comprehensive Planning & Land Use Regulation Act.
- In addition, staff is proposing two substantive changes to the Act that are not covered in the Report.

## Two Types of Changes to the Act

- ***Technical revisions*** are those changes that are proposed to eliminate portions of the Act that are outdated, to correct or update various factual statements, to clarify existing provisions, or to reorganize certain sections of the Act.
- ***Substantive amendments*** that would alter portions of the how the comprehensive planning system is structured.

## **Substantive Amendments to the Act**

### **§ 45-22.2-6 Required elements of comprehensive plans**

- Establish a standard 20-year planning timeframe.
- Allow more flexibility in how comprehensive plans are crafted by specifying that certain required topics be addressed in the plan rather than specific elements.

**Substantive Amendments to the Act**  
**§ 45-22.2-6 Required elements of  
comprehensive plans (con't)**

- Certain maps must be included in comprehensive plans.
- Consideration of natural hazards must be included in comprehensive plans.

## Substantive Amendments to the Act

### § 45-22.2-8 Adoption of comprehensive plans

- Allow a municipality to enter into a formal written agreement with the Director to conduct a review of a draft plan or amendment.
- Sub-A bill may establish uniform public hearing requirements.

## **Substantive Amendments to the Act**

### **§ 45-22.2-9 State review of local comprehensive plans**

- Shorten the time allowed for State reviews for municipalities that have a written agreement with the Director to conduct a review of a draft plan or amendment. (from 255 days to 165 days)
- Municipal appeals directly to Superior Court. (eliminate Appeals Board)
- State approval extended to 10 years. (currently 5 years)

**Substantive Amendments to the Act**  
**§ 45-22.2-10 Coordination of  
state agencies**

- Delete requirement that State agencies submit biennial reports.
- Notify municipalities that failure to comply could result in loss of State approval.

**Substantive Amendments to the Act**  
**§ 45-22.2-11 State technical and  
financial assistance**

- Requires, to the extent practicable, that State agencies provide technical assistance to municipalities in the development of a comprehensive plan.



## Substantive Amendments to the Act

### § 45-22.2-12 Updates and amendments

- Eliminate five-year “updates”.
- Require plans to be fully updated every ten years.
- Establish a five-year implementation report requirement.

## Substantive Amendments to the Act

### § 45-22.2-13 Compliance

- Repeal the requirement that in the event a municipality has failed to submit a comprehensive plan or the Director has disapproved a local comprehensive plan, that the Director will prepare a comprehensive plan for the municipality.
- For further consideration: How to ensure that zoning is consistent with the comprehensive plan?